

AFFIDAVIT OF NON-PRODUCTION**THE STATE OF WEST VIRGINIA
COUNTY OF MARSHALL
DISTRICT OF FRANKLIN**

BEFORE ME, the undersigned, a Notary Public in and for said County, State of OHIO, on this day personally appeared Alvin A. Yoder, a married man, 8400 Kidron Road, Apple Creek, OH 44606, and to me well known to be credible persons and whom, after being by me duly sworn, on his/her oath did state:

Affiants state that they are thoroughly familiar with the following described property located in Marshall County, West Virginia through personal knowledge for more than the past five years:

In and to the following described lands situated in Marshall County, West Virginia, to wit:

PARCEL ONE The following described property situate on the waters of Fish Creek bounded and described as follows: Beginning at a stone a corner to the land of Oliver Rine, T.S. Berisford and the land hereby conveyed; thence by land of said T.S. Berisford the following courses and distances: N 3° 35' East 4 poles to a stake; thence South 83° 55' West 20.12 poles to a lynn tree; thence South 76° 25' West 8.80 poles to a dogwood; thence South 80° 55' West 12.08 poles to a stake and two beeches; thence North 84° 20' West 36.50 poles to a hickory, a corner to the land of the said T.S. Berisford, John W. and Mary J. Brown and the land hereby conveyed; thence by said J.W. and Mary J. Brown; South 3° 45' West 107.68 poles to a stone, a corner of the land of the said John W. and Mary J. Brown, Thomas B. Gatts and the land hereby conveyed; thence by said Thomas B. Gatts South 5° 20' West 30.52 poles to a stake in Narrow Run, a corner of land of said Thomas B. Gatts, Jehu Yoho and the land hereby conveyed; thence by land of said Jehu Yoho the following courses and distances: South 69° 50' East 7.68 poles to a stake; thence South 64° 10' East 10.24 poles to a stake; thence South 82° 5' East 9.56 poles to a stake; thence South 85° 55' East 8.48 poles to a stake; thence North 75° 25' East 6.36 poles to a stake; thence South 82° 50' East 10.40 poles to a water beech and stone, corner to the lands of the said Jehu Yoho, Oliver Rine and the land hereby conveyed; thence leaving said Run and following the lands of the said Oliver Rine North 14° 10' East 149 poles to the place of beginning, containing 57.28 acres, more or less, as per survey made by Whyel and Crawford, Civil Engineers, in September 1902.

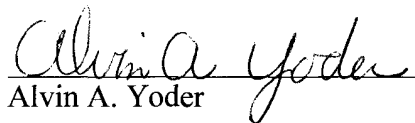
EXCEPTING AND RESERVING, however, all the coal within and underlying the above-described tracts of land, together with the necessary and usual mining privileges.

PARCEL TWO The following described property on the Fish Creek side of Ryan's Ridge, bounded and described as follows: Beginning at a stone in line of W.H. and Joseph Gatts; thence with line of Jason Workman North 5° 0' East 1600 feet to stake in County Road; thence with County Road North 81° 30' East 284 feet, North 79° 30' East 187 feet, North 88° 50' East 444.5 feet, South 49° 25' West 23 feet, to an ash; thence South 7° 30' West 396.5 feet, stake near a large stone pile; thence with stone pile South 25° 15' East 72 feet, thence South 60° 50' East 401 feet; thence South 31° 15' East 145 feet; thence South 11° 15' East 65 feet; thence South 4° 20' West 351 feet; thence South 26° 15' East 54 feet to a walnut; thence South 27° 20' West 161 feet to a stake; thence South 13° 20' West 156 feet to a stake in line of W.H. and Joseph Gatts; thence with their line South 76° 0' 488 feet to the beginning, containing 23.41 acres.

PARCEL THREE The following described property on the Fish Creek side of Ryan's Ridge, bounded and described as follows: Beginning at a stake in the County Road; thence North 5° 0' East 849 feet to the place of sugar and elm; thence South 49° 25' West 1260 feet to a stake in County Road and 23 feet from ash; thence South 88° 50' East 444.5 feet; thence South 79° 30' East 187 feet; thence South 81° 30' East 284 feet, to the beginning, containing 8.5 acres, more or less. Being the same property conveyed by Larry Klintworth, unmarried, and Alvin A. Yoder, d/b/a Calmoutier Lumber, an Ohio partnership, to Alvin A. Yoder, a married man, in a deed dated August 18, 2005, and placed of record in the aforesaid Clerk's Office on September 12, 2005, in *Deed Book 647, Page 396A*.

Excepting and reserving from the above-described tracts, all of Pittsburgh or River seam of coal and all other merchantable coal underlying the abovementioned tracts, the same being conveyed in a deed dated May 20, 1903, from John A. Booth and Lydia J. Booth, his wife, to Ira E. Partridge, and placed of record on May 21, 1903, in the aforesaid Clerk's Office in *Deed Book 98, Page 483*, and in a deed dated and recorded October 22, 1902, from John W. Brown and Mary J. Brown, his wife, to Ira E. Partridge, and placed of record in the aforesaid Clerk's Office in *Deed Book 91, Page 491*.

Affiants state that no operations for or production of oil, gas or other minerals have occurred on any portion of the land described herein in the past five years, nor has there been any production from any lands pooled or unitized with the subject land. No royalty payments or shut-in royalty payments have been received by us in the past five years for the aforesaid lands. Nor have any delay rentals or other payments been received by us in the past five years for any extension of time to drill under the terms of any prior oil, gas and mineral lease(s) covering said land.


Alvin A. Yoder

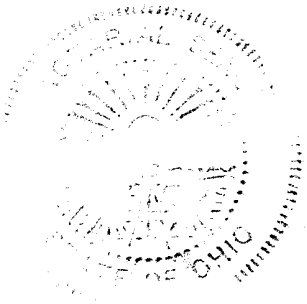
Jan Pest
MARSHALL County 10:21:28 AM
Instrument No 1293181
Date Recorded 10/14/2010
Document Type O&G
Pages Recorded 3
Book-Page 710-182
Recording Fee \$5.00
Additional \$6.00

STATE OF Ohio

COUNTY OF Wayne

Before me, the undersigned authority, on this day personally appeared Alvin A. Yoder, a married man, and known to me to be the persons whose names are subscribed to the forgoing instrument, and acknowledged to me that they executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this 12 day of October, 2010



Darla R. Shellhorn

Notary Public, State of Ohio

Darla R. Shellhorn
Notary's printed name

My commission expires: May 2, 2014



DARLA R. SHELLHORN
Notary Public, State of Ohio
My Commission Expires
May 2, 2014

STATE OF WEST VIRGINIA, MARSHALL COUNTY, SCT.:

I, JAN PEST, Clerk of the County Commission of said County, do hereby certify that the annexed writing, bearing date on the 12th day of October, 2010, was presented for and by me admitted to record in my office upon the above certificate as to the parties therein named this 14th day of October, 2010 at 10:21 o'clock A.M.

TESTE: Jan Pest Clerk.